IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 227 OF 2005

Mrs.Shamim Nazir Maniyar. ... Applicant.
Versus.
The State of Maharashtra. ... Respondent.

Shri Sulbha A.Dhamale for the Applicant.
Ms.Rajashree M.Gadhavi, A.P.P.for the Respondent.

CORAM : ABHAY S. OKA, J.
DATED : 22nd July, 2005.

P.C.:

1. Heard the learned Counsel for the Applicant and the learned A.P.P. for the State.

2. The challenge in this application is to the order passed by the learned Sessions Judge on application for discharge filed by the Applicant.

3. The learned Advocate for the Applicant pointed out that when the charge sheet was filed, the name of the Applicant was not even mentioned as an accused and only after recording of evidence of P.W.1 and P.W.2 was completed, an application was made under section 319 of the Code of Criminal Procedure, 1973. On the basis of the said application the learned Sessions Judge directed that the summons should be issued to the Applicant. Thereafter the Applicant appeared in the Court and obtained bail. The learned Counsel for the Applicant submitted that in the statement of the prosecutrix recorded under section 161 of the said Code of 1973, there is not even a reference to the Applicant and for the first time in the deposition the prosecutrix has

referred to the alleged role played by the Applicant. The learned Advocate submitted that there was absolutely no material on record against the Applicant and this was a fit case where the Applicant should have been discharged. The learned A.P.P. while opposing the application pointed out the relevant part of the evidence and has supported the impugned Judgment and Order.

4. The offence registered is under section 363, 366A read with section 34 of the Indian Penal Code. If the deposition of the prosecutrix is perused, she has stated that it was the Applicant who prepared the plan and the Applicant suggested that the prosecutrix should run away. Case of the prosecutrix is that as per the plan prepared by the Applicant, the Applicant and others came near her house and the Applicant asked her and the Accused No.1 to run away. A perusal of the deposition of the prosecutrix shows that there is material available to prosecute the Applicant. At the stage of considering the Application for discharge what is required to be seen is whether there is any material on record to justify the prosecution of the Applicant. In view of the deposition of the prosecutrix, I find no error with the view taken by the learned Sessions Judge.

Revision Application is accordingly rejected.

Judge.